

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

REUBEN MCDOWELL,

Plaintiff,

-v.-

Civil Action No.
9:06-cv-1060 (GLS/DRH)

DANIEL STEWART, Commission
of Corrections; MICHAEL GATES;
LT. VANWINKLE; C. HALL; and
M. HARPP

Defendants

APPEARANCES:

OF COUNSEL:

FOR THE PLAINTIFF:

TERRENCE Q. WILLIAMS
Plaintiff Pro Se
07-A-0885
Marcy Correctional Facility
P.O. Box 3600
Marcy, New York 13403

FOR DEFENDANT STEWART:

HON. ANDREW M. CUOMO
Attorney General for the State
of New York
The Capitol
Albany, New York 12224

RICHARD LOMBARDO
Assistant Attorney General

**FOR DEFENDANTS GATES,
VANWINKLE, HALL and
HARPP**

MURPHY, BURNS LAW FIRM
226 Great Oaks Boulevard
Albany, New York 12203

THOMAS K. MURPHY, ESQ.

GARY L. SHARPE,
U.S. DISTRICT JUDGE

ORDER

The above-captioned matter comes to this court following a Report-Recommendation by Magistrate Judge David R. Homer, duly filed February 6, 2008. Following ten days from the service thereof, the Clerk has sent the file, including any and all objections filed by the parties herein.

No objections having been filed, and the court having reviewed the Magistrate Judge's Report-Recommendation for clear error, it is hereby

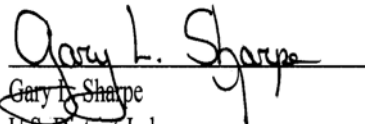
ORDERED, that the Report-Recommendation of Magistrate Judge David R. Homer filed February 6, 2008 is ACCEPTED in its entirety for the reasons state therein, and it is further

ORDERED, that Stewart's motion to dismiss (Docket No. 49) is GRANTED and that the Second Amended Complaint is DISMISSED in all respects as to Stewart, and it is further

ORDERED, that the Clerk of the Court is to mail a copy of this order on all parties by regular mail.

IT IS SO ORDERED

Dated: March 19, 2008
Albany, New York



Gary L. Sharpe
U.S. District Judge